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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,822	12/10/2003	David Jeffrey Chodosh	51483/RVW/C987	2156
23363 7590 02/21/2007 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068			EXAMINER CORBIN, ARTHUR L	
			ART UNIT	PAPER NUMBER
			1761	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/733,822

Applicant(s)

CHODOSH, DAVID JEFFREY

Examiner

Arthur L. Corbin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>103105</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 8-14, 16-21 and 23-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Laulom et al (6,776,315) as set forth on pages 2-5 in the September 21, 2005 Office action.

4. Claims 3-7, 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laulom et al as set forth on pages 5-6 of said Office action.

5. Claims 1-9, 11-16 and 18-27 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Chambers (2,975,925, Figs. 1-3) in view of Gamblin (3,438,527, col. 1, lines 38-52). In regard to claims 1-7, 14, 15, 21, 22 and 28-30, Chambers discloses a beverage assembly including a beverage container attachment having a cup portion (13) with an inner surface that forms a reservoir for receiving a food substance, and a connector (17) having an opening, wherein the connector is used for attaching the cup portion to the beverage container. Chambers does not disclose a beverage regulator.

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Gamblin discloses a drinking straw with a conduit containing a one-way drinking valve that prevents liquid from re-entering a beverage container once the liquid has been sucked into the straw. It would have been obvious to employ the conduit of Gamblin in the beverage assembly of Chambers for the purpose of preventing liquid from entering the beverage container therein. Applicant's claimed conduit is an obvious alternative to the conduit disclosed in Gamblin since each serves the same purpose. In regard to claims 8, 9, 16, 23 and 24, Chambers discloses the food substance as being ice cream (col. 2, lines 37-39) and the beverage being soda (col. 2, lines 48-50). In regard to claims 11, 18 and 25, Chambers discloses a lid portion (12) removably attached from the cup portion (col. 2, lines 34-39). In regard to claims 12, 13, 19, 20, 26 and 27, Chambers discloses said lid portion including a spout (14) with a drinking opening.

6. Claims 10 and 17 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Chambers in view Gamblin as applied to claims 1-9, 11-16 and 18-27 above, and further in view of Paulin (5,085,330, Fig. 2) or Bliss (6,209,737, Fig. 1 and col. 1, lines 42-48). It would have been obvious to use a threaded connector as the connector for the beverage container in Chambers, as above modified, since it is well known to use a threaded connector for forming a removable threaded connection with a beverage container in order to provide a leak free assembly, as evidenced by either Paulin or Bliss.

7. Applicant's arguments and the 37 C.F.R. 1.131 declaration filed October 31, 2005 have been fully considered but they are not persuasive. The declaration fails to establish diligence from a date just prior to March 18, 2003 (the effective filing date of

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Laulom et al) to the filing date of applicant's provisional application, i.e. June 19, 2003. It is not enough for applicant to merely allege diligence, as applicant has done in paragraph no. 6 of said declaration. Rather, applicant must show detailed evidence of facts establishing such diligence (Ex parte Hunter, 1889 C.D. 218).

8. Additionally, applicant is required, under 37 C.F.R. 1.105, to supply detailed information as to exactly what transpired between applicant and "OddzOn", as mentioned in the Product Submission Form included under Exhibit B of said declaration.

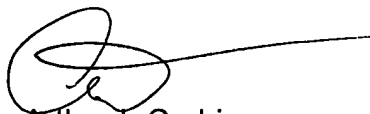
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can normally be reached on Monday-Friday from 10:30 AM to 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton I. Cano, can be reached on (571) 272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Arthur L. Corbin  
Primary Examiner  
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2-15-07